

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CR. NO. 23-30399

v.

HON. STEPHEN J. MURPHY, III

IVAN BLAS-MARTINEZ,

EXPEDITED RELIEF
REQUESTED

Defendant.

**MOTION TO RECONSIDER AND RESCIND ORDER
GRANTING STAY OF ORDER RELEASING DEFENDANT**

The Government filed a Motion for Stay of the magistrate judge's order releasing Defendant at the end of a detention hearing today. (Motion, R. 14, Pg.ID 25). Minutes later, this Court granted that Motion, without any opportunity for the defense to respond. (Order, R. 15, Pg.ID 27).

The defense respectfully asks this court to reconsider and rescind its order granting the stay.

"A stay is an intrusion into the ordinary processes of administration and judicial review . . . and accordingly is not a matter of right, even if irreparable injury might otherwise result to the appellant." *Nken v. Holder*, 556 U.S. 418, 427, 436 (2009) (listing four factors for consideration of whether to issue a stay). When deciding a motion to stay, the Court considers: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Id.*

Here, these factors weigh firmly against the government's request. The government's motion failed to address any of the *Nken* factors. The government's motion was entirely without arguments or supporting facts as to why the stay should be granted. Thus, the government's motion has not met the standard required for the issuance of stays, and the court should rescind the stay.

Respectfully submitted,

**FEDERAL COMMUNITY DEFENDER
EASTERN DISTRICT OF MICHIGAN**

s/Jean Pierre Nogues

JEAN PIERRE NOGUES

Attorney for Defendant

613 Abbott Street, Suite 500

Detroit, Michigan 48226

(313) 967-5840

E-mail: jp_nogues@fd.org

NYS OCA# 5099379

Dated: October 3, 2023

UNITED STATES DISTRICT COURT
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SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CR. NO. 23-30399

v.

HON. UNASSIGNED

IVAN BLAS-MARTINEZ,

Defendant.

_____ /

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

C. Barrington Wilkins
Assistant United States Attorney
United States Attorney's Office
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226

**FEDERAL COMMUNITY DEFENDER
EASTERN DISTRICT OF MICHIGAN**

s/Jean Pierre Nogues
JEAN PIERRE NOGUES
Attorney for Defendant
613 Abbott Street, Suite 500
Detroit, Michigan 48226
(313) 967-5840
E-mail: jp_nogues@fd.org
NYS OCA# 5099379

Dated: October 3, 2023